VIRGINIA LAW REGISTER.

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MISCELLANEOUS NOTES.

ACT CURING DEFECTIVE ACKNOWLEDGMENTS OF MARRIED WOMEN.—The attention of the profession of the State is called to an important statute found in Acts 1891-'92, p. 798, designed to remove, as far as possible, clouds upon titles to real estate, resulting from defective certificates of acknowledgment of married women, under the stringent requirements of the law existing on the subject prior to the Code of 1887. The act is not in terms confined to such defects as arise out of the old law of privy examination, and, doubtless, would be held to apply to cases arising since the adoption of the Code, and up to the date of the passage of the Act, February 29, 1892; but it would probably not apply to future cases, since its language seems to restrict it to past transactions. Practically, however, it is important only in connection with the former requirements. The Act is not indexed under the title of "Married Women", the most natural place for it, nor of "Husband and Wife", nor of "Deeds", nor of "Acknowledgments", nor of "Defective Acknowledgments", but is only to be found under the unexpected head of "Titles".

The terms of the Act are as follows:

Be it enacted by the General Assembly of Virginia, That in all cases where a husband and his wife have signed a writing purporting to convey any real estate, and such writing has been admitted to record in the proper clerk's office upon a certificate of acknowledgment, taken by an authorized officer, which was defective or imperfect under the laws of Virginia then in force, and the purchase money has been paid by the purchaser, and the grantee has remained in quiet and undisturbed possession of the said real estate under the said writing for ten years after the date of its recordation, the said writing shall operate to convey from the wife her right of dower in the real estate embraced therein, and pass from her and her representatives all right, title and interest of every nature (purporting to be conveyed by the said writing), which at the date of such writing, she may have had in any real estate conveyed thereby, as effectually as if such writing had been acknowledged, certified and admitted to record in strict conformity with the laws then in force: *Provided, however*, That any person interested may, within two years after the passage of this act, or the expiration of the ten years aforesaid, institute proceedings to impeach such writing and have the validity thereof and the rights of all persons determined according to the laws in force at the date of such acknowledgment and recordation; and any married woman or other person interested, whether a resident or non-resident of Virginia, may in her own name, or by a next friend, institute such proceedings within the period hereinbefore named, but not thereafter.

2. This act shall be in force from its passage, and all acts are hereby repealed so far as they are in conflict with this act.—*Approved February 29, 1892.*

The two years of grace allowed by the statute in cases where the prescribed period of ten years had already elapsed at the date of its passage, have now expired; so that all defects of title arising from this cause, prior to February 29, 1880 (that is twelve years anterior to the passage of the act, February 29, 1892), where the prescribed conditions as to recordation, payment of purchase money and possession exist, are now effectually cured. As to those cases where the ten-year period had not elapsed at the date of the passage of the act, such of them as arose twelve years ago (say, prior to August 1, 1883), are also barred. The utmost limit of suits by married women, or their representatives, to recover lands, based upon defective certificates of acknowledgment under the former laws of privy examination (supposing the prescribed conditions as to recordation, possession, etc., to obtain), is twelve years from the date of the adoption of the Code of 1887 (May 1, 1888), or May 1, 1900. And if our construction be proper that the Act applies also to cases arising in the interval between the adoption of the Code and the passage of the Act (February 29, 1892), then the utmost limit will be February 29, 1904. It is to be observed that the period of limitation runs, not from the date of the conveyance, but from the date of its *recordation*.

How far the writing, defectively certified, will be held to prove itself or the facts it recites, is not in terms provided for. Several conditions must first exist before the writing is to become effectual either as a conveyance or as a record. For example, the husband and wife must have signed it—does the defective certificate prove that fact in the first instance? The purchase money must have been paid—is the acknowledgment of its receipt in the writing itself sufficient proof of payment? After these facts are established, then, and only then, upon a strict construction of the act, does the writing become completely effectual. Thus, upon a question of agency the declarations of the alleged agent will not be received either to prove the relation or as evidence against the principal, until the agency has been first established. So, in cases of conspiracy; the conspiracy must first be established before the acts or declarations of one alleged conspirator will be received to prove the conspiracy or to affect his accomplice. But, construing the Act according to its reason and spirit, and giving it a liberal construction as a remedial statute, it is not unlikely that the courts will hold that after the lapse of the prescribed period, with possession proved, the recorded writing will be sufficient *prima facie* proof of the truth of its recitals, and will be as effectual, both as a conveyance and as a record, as if the certificate had been without original defect.

It will be observed that the Act does not use the term "deed," but "writing." The same term is used in sec. 2502 of the Code of 1887, in connection with the recordation of conveyances of married women, where it is provided that "when a husband and his wife have signed a 'writing' purporting to convey any estate, real or personal, such 'writing' may be admitted to record, . . . and shall operate to convey from the wife her right of dower in the real estate embraced therein," etc. This use of the word "writing," instead of "deed," has given rise to the argument that a married woman's conveyance of real estate need not be under seal. It is probable, however, that this expression was used as having a broader meaning than "deed," and was intended to cover leases for five years or less, which need not be under seal, or other transfers of property

where a deed is not essential—*e. g.*, assignment of *choses* in action, etc. Hence, sec. 2502, as well as the statute above quoted, should probably be read along with sec. 2413 of the Code, which prescribes that "no estate of inheritance or freehold, or for a term of more than five years, in lands, shall be conveyed unless by deed or will."

THE VIRGINIA STATE BAR ASSOCIATION.—The Virginia State Bar Association will hold its seventh annual meeting at the White Sulphur Springs, West Virginia, on Tuesday, Wednesday and Thursday, August 6, 7 and 8, 1895. The chief features of the meeting will be an address by the President, Charles M. Blackford, of Lynchburg; a paper by the late lamented Francis H. McGuire, of Richmond, on "The General Court of Virginia," to be read by Judge James C. Lamb, of Richmond; the annual address by Hon. Roger A. Pryor, of New York; a paper by George Perkins, of Charlottesville, on "The Lawyer's Place Among Men"; and a paper by R. Walton Moore, of Fairfax, entitled "Some Views on Criminal Procedure." We note also from the Secretary's announcement that a report is expected at this meeting from the special committee on the judiciary system of the State. If the Bar Association shall succeed in reforming this vicious system, it will deserve the gratitude of every citizen, whether lawyer or layman. Thus far the success of the Association has been rather in the good fellowship and the *esprit de corps* fostered amongst its own members, and in its silent influence toward elevating the tone of the profession. Now that it is well upon its feet, with the respect and confidence of the public, we should like to see this, the largest and most intelligent body of Virginians that are accustomed to confer together, concentrate its energy and influence upon some single task of importance,—whether the end chosen be the reformation of the judiciary system, of the laws regulating admission to the bar, or whatsoever else may seem worthy of the efforts of so eminently respectable a body.

SUITS TO AVOID FRAUDLUENT CONVEYANCES.—(1) *As to debts not due*—In *Devries v. Johnson*, 27 Gratt. 805, the Virginia Court of Appeals, with four judges sitting, was equally divided upon the question whether, under ch. 175, sec. 2 of the Virginia Code of 1873 (Virginia Code, 1887, sec. 2460), a creditor might maintain a suit to avoid a fraudulent conveyance by his debtor, before the maturity of his debt. The question again arose in *Batchelder v. White*, 80 Va. 103, 106, and, without citing *Devries v. Johnson*, or assigning reasons, was resolved in the negative by a unanimous court. All doubt upon the subject is now removed by a recent amendment, which provides that "a creditor before obtaining a judgment or decree for his claim, may, *ether such claim be due and payable or not*, institute any suit which he might institute after obtaining such judgment or decree," to avoid a voluntary or fraudulent conveyance.—Acts 1893–4, p. 614.

(2) *When creditor's lien begins*—The rule established in *Wallace v. Treakle*, 27 Gratt. 479, was that the lien of creditors at large attached from the filing of their bill or petitions; and the lien of judgment creditors (as to real estate) from the dates of their several judgments, obtained in the lifetime of the debtor and prior to the filing of the bill, though subsequent to the conveyance. This rule has been altered as to creditors at large by sec. 2460, which provides that

"a creditor availing himself of this section shall have a lien from the time of *bringing his suit*" on the property transferred, and "a petitioning creditor shall have a like lien from the filing of his petition." Under the rules of chancery practice, such petition could be filed only by leave of court, in term; but by a subsequent amendment a petition in a case of this character may be filed in court or *in the clerk's office.*—Acts 1889–'90, p. 73; Acts 1893–4, p. 614.

As to when the lien of judgment creditors begins, it would seem that section 2460 has wrought no change of the rule as to them; and that a judgment creditor who brings himself within the principle of *Wallace v. Treakle* would retain his priority, though the creditor at large first assails the conveyance. The provision that the lien of the attacking creditor shall begin from the time of bringing his suit, clearly does not contemplate that a judgment lien which has already attached shall be displaced by a subsequent competing lien, dating only from the time of suit brought. The purpose of the statute was not to restrict or limit existing liens, but to create a lien where none existed before.

If this be true as to judgment liens on real estate, like reasoning would give like priority to an execution creditor, with respect to personal property. That is to say, a judgment creditor who, between the date of the transfer and the bringing of a suit by a creditor at large to avoid it, sues out his execution, and treating the property as still the property of the execution debtor, so deals with his execution as to acquire a lien upon the subject matter of the litigation, under chapters 175 and 176 of the Code, would take priority of the creditor at large.

It is well enough also to observe that such liens as are acquired on the same day under sec. 2460, by express provision of the statute, share ratably in the proceeds, though some precede others in actual point of time—following in this respect the analogy of judgment liens (Va. Code 1887, sec. 3576) and differing from execution liens (Ib. sec. 3590) and liens by deed of trust or mortgage (Ib. sec. 2469).

(3) *Lis Pendens*—Until the adoption of the Code of 1887, the common law rule that *pendente lite* purchasers are charged with constructive notice of suits respecting the property purchased, and take subject to the result of the litigation, in accordance with the maxim *pendente lite nihil innovetur*, remained in full force in Virginia, save as to purchasers of real estate. With respect to the latter, we have long had a statute (now found in sec. 3566 of the Code of 1887) prescribing that "no *lis pendens* or attachment . . . shall bind or affect a *bona fide* purchaser of real estate for valuable consideration without actual notice of such *lis pendens* or attachment, unless and until a memorandum" setting forth certain prescribed particulars, shall be filed in the clerk's office of the county or corporation in which such real estate is situated. It is to be observed that this statute affects no other class of persons than *purchasers*, and no other species of property than *real estate.* In other respects, the common law rule of *lis pendens* remains unimpaired in Virginia, save as presently to be mentioned. The rule is discussed at length in *Newman v. Chapman*, 2 Rand. 93, and in an elaborate note to that case in 14 Am. Dec. 774–779.

There was introduced into the Code of 1887, for the first time, an additional statute on the subject of *lis pendens.* The new provision is confined exclusively to suits to avoid voluntary and fraudulent conveyances, but it affects *creditors* as well as purchasers, and *personal* as well as real estate. It does not appear in the

index of the Code, and being placed in a different part of the volume, separated from the former provision by more than a thousand sections, is apt to be overlooked by busy practitioners, or else confounded with the old statute on the subject. The following outline of the two statutes, in parallel columns, will serve to emphasize the contrast between them:

Sec. 2460.	Sec. 3566.
Applicable to—	Applicable to—
(a) Suits to avoid voluntary or fraudulent conveyances only.	(a) Suits of every character directly affecting the property, including attachments.
(b) Creditors and purchasers.	(b) Purchasers only.
(c) Property of every character.	(c) Real estate only.

Sec. 2460 of the Code of 1887 (amended by Acts 1889-'90, p. 73; Acts 1893-'4, p. 614), after providing that the assailing creditor shall have a lien from the time of bringing his suit, as already noticed, prescribes further that "such lien shall not be valid against creditors and purchasers for valuable consideration and without notice, until and except from the time a memorandum setting forth—

"1. The title of the cause;

"2. The general object thereof;

"3. The court wherein it is pending;

"4. The amount of the claim asserted (Acts 1889-'90, p. 73);

"5. A description of the property; and

"6. The name of the person whose estate is intended to be affected thereby,

"Shall be left with the clerk of the court of the county or corporation wherein the property is."

Under the construction which has prevailed in Virginia for nearly seventy years, of the phrase "creditors and purchasers for valuable consideration and without notice," used in this statute, it includes all creditors, whether with or without notice. *Guerrant v. Anderson*, 4 Rand. 208 (1826); 2 Minor's Inst. (4th ed.) 958, 964. Hence a creditor who sues to avoid a conveyance by his debtor, but fails to file the prescribed memorandum of *lis pendens*, takes the risk not only of losing the benefit of a recovery by a sale of the property pending the suit, to a *bona fide* purchaser, but of being postponed to a later creditor who complies with the statute, though with actual notice of the former creditor's suit. This is strikingly illustrated by the case of *Davis v. Bonney*, 89 Va. 755. There the first assailing creditor failed to file a memorandum of *lis pendens;* the second creditor filed a petition in the former's pending suit, along with the proper memorandum in the clerk's office. It was held, and properly so, in our opinion, that the latter creditor was entitled to priority over the former.

(4) *Personal decree*—The principle was also laid down in *Davis v. Bonney, supra* (though not so stated in the syllabus or in the index of the volume in which it is reported), that in a suit of this character no personal decree could be entered which would bind any other estate of the debtor; that when the property transferred had been exhausted, no further relief could be given in the case. This has now been altered by a provision that in such case, "if the . . . transfer be declared void, the court may make a decree against the debtor in favor of any creditor whose claim shall have been proved in the suit, for the amount of such

claim, or for the balance due thereon after applying thereto the share of the proceeds of the sale of the estate to which such creditor may be entitled." Acts 1893–4, p. 614.

MEDICO-LEGAL CONGRESS.—The Medico-Legal Society announces that it will hold a Medico-Legal Congress on the 4th, 5th and 6th of September, 1895, which will be open to all students of Medical Jurisprudence. The place of meeting will be at or near the city of New York, and will be announced later. Among the papers to be read, will be following: "Duties of the Railway Surgeon to the Corporation, to the People, and to Himself," by Prof. A. M. Phelps, of New York; "Necessity of Medical Supervision for Criminal Arrests," by Prof. Austin Abbott, of New York; "Hypnotism in the Courts of Law," by Clark Bell, Esq., of New York, Editor of the *Medico-Legal Journal;* "Suicide and the Right to Commit It" and "Prostitution—The Evil; The Cure; Legistation, etc.," by Gustave Boehm, Esq; "The Relation of Occult Medicine to Law," by Mary Weeks Burnett, of Chicago; "Inebriety and the Opium Habit in their Relation to Testamentary Capacity," by E. C. Mann, M. D., of New York; "Hypnotism in Crime," by Prof. W. X. Ludduth, of the University of Minnesota, Minneapolis; and numerous others. A general invitation to enroll is extended to all persons interested in the Science of Medical Jurisprudence. An enrolling fee of $3.00 will be required of each member, payment of which will entitle him to the Bulletin of the Congress. Further information may be had of Clark Bell, Esq., Secretary, No. 57 Broadway, New York City.

HONORS TO AMERICA'S THREE GREATEST LAW TEACHERS.—It is a remarkable fact that the same year, and almost the same month, has been made noteworthy by the celebration by three of our foremost law schools, each representing a different section of the country, of the long continued service of the three men who are easily first among living instructors in the law in the United States. Their names will at once occur to our readers—John B. Minor, of the University of Virginia; Thomas M. Cooley, of the University of Michigan; and Christopher C. Langdell, of Harvard University.

Of the celebration on June 12, 1895, of the fiftieth anniversary of Prof. Minor's professorship in the Law Department of the University of Virginia, some account was given in the July number of the REGISTER; and a high but just tribute was paid to his character and influence by one who is known to weigh his words, and who is entitled to speak with authority.

On Friday, May 24, 1895, a bust of Judge Cooley was presented to the University of Michigan by the Senior Class of the Law School. Judge Cooley has been a member of the Faculty since 1859, and was the virtual founder of the Law Department. The bust is of bronze, and is of life size. It was accepted by Prof. Knowlton, dean of the Law School, who was followed by President Angell, on behalf of the University, who spoke as follows: "Great as Judge Cooley has been in his intellectual gifts, he has been quite as great by force of his character. The simplicity, purity, and weight of his character have exerted an influence quite as marked and lasting as the strength of his mind. No one could come near him and not be the better for it. His modesty was a rebuke to conceit, his simplicity to pretentiousness, his purity to vice. The keen glance of his honest eye scorched

and withered meanness. He was ever ready with exhaustive patience to give to his students what was so valuable to him—his time—in explaining in private the intricacies of legal problems. His kindness in this regard was proverbial. His pupils were permitted to come into so close relations with him that they were deeply impressed by his charming personality. His noble manliness, his quiet courage, his generosity of heart, his loftiness of spirit, have exalted and ennobled their souls. How many of them have I heard testify to the moral as well as intellectual inspiration they have received from him! How much has he done, through the thousands who have caught something of his spirit, to elevate the American Bar, and thus to aid in the prevalence of justice and the triumph of righteousness!" After President Angell, an address on Judge Cooley's character and public services was delivered by Hon. William B. Hornblower, of New York.

On June 26, 1895, Harvard University celebrated the twenty-fifth anniversary of the Deanship of the Law School by Prof. Langdell. The principal oration on this occasion was delivered at the reunion of the Harvard Law School Alumni by Sir Frederick Pollock, who had crossed the Atlantic to be present at what he called "Dean Langdell's silver wedding with the school," and also to receive from Harvard the degree of Doctor of Laws. In his address, entitled "The Vocation of the Common Law," Prof. Pollock (for he is himself a law teacher) said:

"If there be any seat of learning where this ideal of the essential unity of the common law in all its dwelling places has been wisely and diligently cherished, it is Harvard; if there be any teacher whose work has been steadfastly directed to this end, it is Mr. Langdell, whose long and excellent service to this school, and not only to this school, we are now happy to celebrate.

"Mr. Langdell has insisted, as we all know, on the importance of studying law at first hand in the actual authorities. I am not sure whether this is the readiest way to pass examinations; that is as the questions and examiners may be. I do feel sure that it is the best way, if not the only one, to learn law. By pointing out that way, Mr. Langdell has done excellently well. But the study he has inculcated by precept and example is not a mere letter worship of authority. No man has been more ready than Mr. Langdell to protest against the treatment of conclusions of law as something to be settled by mere enumeration of decided points. For the law is not a collection of propositions, but a system founded on principles; and although judicial decisions are in our system the best evidence of the principles, yet not all decisions are acceptable or ultimately accepted, and principle is the touchstone by which particular decisions have to be tried. Decisions are made; principles live and grow. This conviction is at the root of all Mr. Langdell's work, and makes his criticism not only keen but vital. Others can give us the rules; he gives us the method and the power that can test the reason of the rules."

It was announced that Prof. Langdell would retire from the Deanship of the Law School, and that he would be succeeded by Prof. James Barr Ames.

THE CASE SYSTEM OF TEACHING LAW.—This method of legal instruction was originated by Prof. C. C. Langdell, at Harvard University, just twenty-five years ago; and the celebration at the Harvard commencement last June of the twenty-fifth anniversary of Prof. Langdell's deanship of the Law School was

also the celebration of the twenty-fifth anniversary of the "new departure," as it then was, of teaching law by the decided cases, instead of the old method by text-books and lectures. Whatever may be thought of the "Case System"—and it is not here proposed to discuss its merits—it cannot be denied that it has steadily grown in favor and use, so that it is now not only thoroughly entrenched at Harvard, but it has become the approved mode of instruction in a number of our largest law schools. The new method—whether a more excellent way or not—has evidently come to stay; and it is exerting a powerful influence even in those law schools by which it has not been adopted. In view of these facts, it will be of interest to our readers to have from the founder of the system a statement of his own method of using cases; and we print, with the permission of Prof. Langdell, recently obtained, an extract from a letter written by him in 1878, in courteous reply to an inquiry as to his method of teaching by cases:

"The method of teaching by cases was first introduced here in 1870. It consists, first, in using a collection of cases on a given subject as a text-book, instead of using a treatise on the same subject. For each exercise the members of the class are expected to prepare themselves by studying thoroughly some ten or twelve pages of the cases. During the exercise each student has his volume of cases before him, with facilities for taking notes. The instructor begins by calling upon some member of the class to state the first case in the lesson, *i. e.*, to state the facts, the questions which arose upon them, how they were decided by the court, and the reasons for the decision. Then the instructor proceeds to question him upon the case. If his answer to a question is not satisfactory (and sometimes when it is), the question is put round the class; and if the question is important or doubtful, or if a difference of opinion is manifested, as many views and opinions as possible are elicited. The students also question the instructor, and state their own views and opinions without being called upon. A leading object is to make each case the subject of as much *profitable* discussion as possible. Before leaving a case, the instructor makes such comments and criticisms upon it as he thinks are called for. As the cases are always more or less conflicting (and frequently very much so), the instructor is compelled to deal with every question upon principle. If he says a decision is right, he has to support it against all attacks; if he says it is wrong, he has to meet all arguments adduced in support of it. In short, the instructor finds it necessary to have a sharply-defined view of his own upon every question that arises, and to be prepared to maintain it against every variety of objection.

"The subject of equity pleading I began to teach by cases in 1873, and I have had more difficulty with it than with any other subject. It was chiefly with a view to removing these difficulties that I prepared the Summary. The cases are still the basis of the instruction, and the students read and study the Summary in connection with the cases. The instructor also refers to the summary as he has occasion, in connection with his oral expositions."

It will be seen that Prof. Langdell makes no reference to the *theory* on which instruction by cases proceeds. This is ably done by Prof. William A. Keener, Dean of the Columbia College Law School, New York, in a paper read before the American Bar Association in 1894, entitled, "The Inductive Method in Legal Education." He says: "For the purposes of the inductive method it is quite immaterial, as has been pointed out by the Committee of the American Bar As-

sociation on Legal Education, whether the cases are to be regarded as the original sources, in the sense that they make the law as a statute makes law, or simply as evidence of the law, and but an application of principles to particular facts. 'That the decided cases,' says the committee, 'are the sources from which all must learn what the law is, no intelligent common law lawyer will dispute. Our very treatises and text-books derive from the cases they quote all the authority they have.' If the authority of treatises and text-books is derived from the cases, then the treatises and text-books must be derivative, while the cases are the original sources; and he who consults the text-book as a substitute for the cases, gets his information at second-hand." And he quotes from Mr. Justice Holmes as follows: "To make a general principle worth anything you must give it a body; you must show in what way and how far it would be applied actually in an actual system; you must show how it has emerged as the felt reconciliation of concrete instances, no one of which established it in terms. . . . Does not a man remember a concrete instance more vividly than a general principle? And is not a principle more exactly and intimately grasped as the unexpressed major premise of the half dozen examples which mark its extent and its limits than it can be in any abstract form of words?" And Prof. Keener then uses this argument: "How does the practising lawyer of to-day, investigating a question with a view to preparing an opinion or writing a brief, inform himself? Is it by reading a text-book and seeking to understand the author's point of view in the light of the illustration which an author may use, or does he use the treatise, much as he does a digest, for the purpose of finding the original sources, the examination of which, when found, constitutes his real work, and enables him to deal with the subject under consideration? No one will question that the latter is the method by which the successful lawyer of to-day accomplishes results. And if this is the way in which the lawyer needs to inform himself, why should not the same method be used by the student? No one would condemn more severely than believers in the case system the indiscriminate reading by students of a mass of unclassified decisions. Under the case system, however, the student is not referred to a mass of cases, nor to an unclassified list of cases. He is, in fact, referred to a *few classified* cases, selected with a view to developing the cardinal principles of the topic under consideration. In other words, under the case system the student is given the material to which both lawyers and judges resort, but his investigations are made under the direction and with the assistance of his instructor."

It will also be observed that Prof. Langdell speaks of the difficulty he experienced in teaching equity pleading by cases, and to his preparation of a summary of the law on that subject, "which the students read and study in connection with the cases," and to which "the instructor refers as he has occasion in connection with his oral expositions." Prof. Langdell has also prepared a "Summary of the Law of Contracts," to accompany his Cases on Contracts. This would suggest that, while "the cases are still the basis of the instruction," statements of legal principles, in the nature of text-books, have also been found useful, if not indispensable. And Prof. Keener says: "It is unnecessary to consider whether law can be taught *exclusively* by cases, for the reason that I know of no teacher who has made the attempt. Speaking for Columbia College Law School, with which I have the honor to be connected, I may say that in all the courses where

the case system of instruction is followed—and it is practically the system by which all the instruction in private or municipal law is given—text-books are used and oral instruction given. The distinctive feature of the case system is not the *exclusive* use of cases, but that the reported cases are made the *basis* of instruction, where in other schools they are referred to, if at all, by way of illustration only; and the text-books, which in most schools are made the basis of instruction, are used for purposes of reference and collateral reading, and to enable students to compare their own generalizations with those of authors of standard works."

In concluding his paper Prof. Keener admits that "not only must the personal equation be considered with reference to the pupil, but the personality of the teacher is of the greatest importance in any system of education." And he adds that an argument which can be fairly urged in favor of the case system is that the method of teaching involved therein is so flexible that two men may use it as the basis of instruction, and the teaching of one hardly suggest the teaching of the other." And in the preface to his admirable collection of "Cases on Evidence," Prof. Thayer, of the Harvard Law School, makes this statement: "It [*i. e.*, the collection of cases] furnishes a text-book for that careful preliminary study which should prepare all who are to take part in the regular conferences between an instructor and his pupils. My experience confirms that of others who have found, in dealing with our system of law, that the best preparation for these exercises is got from the study of well-selected cases. As for methods of teaching—that is another matter. These must indeed have relation to any particular methods of study that are prescribed or recommended, but they are not necessarily determined by them. In law, as in other things, every teacher has his own methods, determined by his own gifts or lack of gifts—methods as incommunicable as his temperament, his looks, or his manners."

HAVE THE ATTEMPTS TO DO AWAY WITH FORMS OF ACTION SIMPLIFIED PROCEDURE.—This is the title of an article in *The Law Student's Helper* for June, by James De Witt Andrews, Esq., of the Chicago Bar. Mr. Andrews is the editor of a valuable edition of *Stephen on Pleading*, recently published, in which a main object is to compare and contrast, in the notes, Common Law Pleading with Code Pleading, or the so-called Reformed Procedure. In the article referred to, Mr. Andrews concludes as follows:

"It is safe to assert that the Code has not, on the whole, simplified procedure or rendered it more speedy, justice more certain or less expensive." And he declares that the following points may be safely asserted:

"That codification has not simplified the rules as to joinder of parties, nor has it introduced new principles as to the same. The rules relating to the election of remedies have not been changed, and these rules depend upon legal fictions and the recognition of distinctions between different forms of action."

"That the Codes have not done away with the general pleading (one of the professed objects of the Code), because the common counts may be used in precisely the same cases and to the same extent as under the common law system."

"That the Codes have not caused lawyers to shorten the statements of cases is certain beyond all question."

"That no new rule or principle of allegation has been introduced by the Code has likewise been distinctly settled by the decisions of Code Courts, nor has any old method been abrogated so far as relates to actions which before the Codes were termed legal."

"The rule as to joining causes has been slightly modified, but not in principle, nor can it be shown that the change has tended toward simplicity and clearness of issue."

"Several counts for a single cause may be used as formerly."

Mr. Andrews declares that the whole trouble in the matter of procedure "lies in lack of study, such as the English pleader was obliged to undergo," and that this neglect is "the result of a supposition that in some way changing measures and names, and calling the result a system and a Code, would put an end to the necessity for the application of the rules of logic necessary to distinguish between things that are different."

In conclusion, Mr. Andrews declares that "the root of the matter" is struck by Prof. Austin Abbott, Dean of the New York University Law School, in his address in 1893 before the Section of Legal Education of the American Bar Association. In discussing the question, "How far ought law schools to teach procedure?" Prof. Abbott says:

"Is it not clear that the great need of the bench now is a trained bar? Every judge is painfully familiar with the burden imposed on him in the administration of justice by a mass of crude and ill-digested allegation and proofs thrust before him by attorneys who may have systematic ideas of the general principles of the law, but are ill-trained in the scientific application of those principles. The reports of our courts of last resort teem with the wrecks of mispleadings and mistrials. . . . What a boon to our community it would be if the practice of the law could be lifted above the entanglements of half-understood procedure, and if a bar trained in the logic of pleading and the practice of adducing evidence, and a bench freed from the incessant duty of correcting errors in practice, could devote themselves fully to the free and useful reasoning of the Modern American Law upon the usages of business and the interests of commerce and society."

THE AMERICAN BAR ASSOCIATION.—As heretofore announced, the eighteenth annual meeting of this Association will be held in Detroit, Michigan, on Tuesday, Wednesday, Thursday and Friday, the 27th, 28th, 29th and 30th of August. The President's Address will be delivered on Tuesday morning by Hon. James C. Carter, of New York, and on Tuesday evening the Association will be welcomed by the Michigan and Detroit Bar, with an address by George V. N. Lothrop, President of the Detroit Bar Association. On Wednesday morning the Annual Address will be delivered by Hon. William H. Taft, of Ohio, judge of the Circuit Court of Appeals of the United States, and on Wednesday evening papers will be read by William Wirt Howe, of Louisiana, and Richard Wayne Parker, of New Jersey. The morning session of Thursday and Friday will be occupied with reports of special committees, election of officers, and miscellaneous business. The sessions of the Section of Legal Education will be held Tuesday, Thursday and Friday at 3 o'clock p. m. The sessions of the Section of Patent Law will be held at the same hour on Tuesday and Thursday.

The Section of Legal Education will be presided over by Prof. Jas. B. Thayer, of Harvard University, who will deliver the Chairman's Address. Papers will be read by Prof. Otto Kirchner, University of Michigan; Prof. George H. Emmott, Johns Hopkins University; Hon. David J. Brewer, of the Supreme Court of the United States; Prof. E. W. Huffcutt, Cornell University; Rev. Lyman Abbott, Brooklyn, N. Y.; and Dr. N. S. Davis, Chicago, Ill.

It is stated that "an excursion or other entertainment will be given to the Association on Wednesday afternoon, and an excursion on steam yachts up the Detroit river and Lake St. Clair to the Club House on Thursday evening by the local bar". The annual dinner will be given at the Hotel Cadillac on Friday evening.

We regret to see that of the 1,144 members of the American Bar Association only eighteen are from Virginia. The constitution of the Association provides that "all nominations for membership shall be made by the Local Council of the State to the bar of which the persons nominated belong. Such nominations must be transmitted in writing to the chairman of the General Council, and approved by the Council on vote by ballot." But, "during the period between the annual meetings, members may be elected by the Executive Committee upon the written nomination of a majority of the Vice-President and members of the Local Council for any State."

The Vice-President for each State, and not less than two other members from such State, to be annually elected, constitute the Local Council for such State, of which the Vice-President is *ex officio* chairman. For Virginia, the Vice-President is Thomas Nelson Page, Richmond; and the Local Council are: Wm. J. Robertson, Charlottesville; Wm. R. McKenney, Petersburg; Alfred P. Thom, Norfolk; Charles A. Graves, Lexington; Theodore S. Garnett, Norfolk; S. Griffin, Bedford City; M. M. Gilliam, Richmond; James Lyons, Richmond; and Legh R. Watts, Portsmouth.

NOTICE BY POSSESSION.—In an editorial in the July number of *The American Lawyer*, the law as laid down in *Chapman v. Chapman*, 1 Va. Law. Reg. 195, that the open and peaceable possession of land under a claim of right is notice to all the world of the claim or right of the person in possession, is declared to be "the established doctrine both in England and in this country concerning the obligations resting on the vendee of real estate"; and the opinion of the court in *Chapman v. Chapman* is characterized as one of "unusual clearness and strength."